

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE A.J. SADASHIVA

WRIT PETITION NO. 35662/1997

BETWEEN:

Sri.Y.Sadashiva, s/o Neela
Nayaka, aged 48 yrs., r/a
No.1035, II Main Road, M.C.
Layout, Vijayanagara,
Bangalore-40.

64

.. Petitioner

(By Sri P.K.Ponnappa, Adv.,)

AND:

1. The Bangalore Development
Authority, Kumara Park West,
T.Chowdaiah Road, Bangalore-20,
by its Chairman.

2. The Special Land Acquisition
Officer, Bangalore Development
Authority, Kumara Park West,
T.Chowdaiah Road, Bangalore-20. .. Respondents

(By Sri N.K.Patil, Adv.,)

This Writ Petition filed under Articles 226 and 227 of the Constitution of India, praying to quash Annexure-A, B, C, D, E and F passed by the respondents 1 and 2 dated 5.2.92, 19/20.8.92, 12.1.93, 15.6.93, 5.7.93 respectively and etc.,

This Writ Petition coming on for preliminary hearing this day, the Court made the following :-

O R D E R

Admittedly, the petitioner purchased the site after the declaration was published under sub-section (1) of section 18 of the City of Bangalore Improvement Act, 1945. On the strength of the sale in his favour by the previous owner of the land, he filed applications before the Bangalore Development Authority for re-allotment of the said site or allotment of an alternate site. His applications were rejected by the Bangalore Development Authority as per Annexures-A, B, C, D, E and F. Having been aggrieved by the said annexures, the petitioner has filed this petition under Articles 226 of the Constitution of India by quashing the annexures by a writ of certiorari, with a further writ in the nature of mandamus directing the Bangalore Development Authority to allot a site measuring 30' x 40' in Sy. No.108/1 of Katharaguppe Village as an alternative, in lieu of the site acquired by the Bangalore Development Authority.

2- It is clear from the facts stated above that no land belonging to the petitioner was acquired. On the

other hand he purchased a part of the land which was acquired by the Bangalore Development Authority and claims benefit under Rule 11(iv) of the Bangalore Development Authority Allotment of Sites Rules, 1984. Sri.P.K.Ponnappa, the learned Counsel appearing for the petitioner, has also relied on the decision of the Supreme Court in STATE OF U.P. Vs. PISTA DEVI & ORS., (AIR 1986 SC 2025). Neither the Rules of the Bangalore Development Authority of Sites Rules (hereinafter called "the Rules") nor the decision of the Supreme Court upon ^{the} which the petitioner relies are applicable to/facts of this case as they could be distinguished from each other. The Rules and the decision of the Supreme Court would be attracted in respect of persons whose lands have been acquired by the Authority. They are totally inapplicable in respect of persons who acquired the property in total disregard to the Rule of law keeping their eyes wide open to the fact that their vendors did not have title to the property in question. In the absence of any statutory provisions for allotment of alternate site in favour

2

67

4

of persons like the petitioner, this petition is totally misconceived. It is accordingly rejected.

3. In the circumstances of the case, there is no order as to costs.



Sd/-
JUDGE

ckl/5698